

## PATENT APPLICATION

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

McCall, Catherine A.  
 Hunter, Shirley Wu  
 Weber, Eric R.

Serial No.: 09/662,293

Filed: September 14, 2000

Atty. File No.: AL-2-C4

Confirmation No. 9793

For: "NOVEL DERMATOPHAGOIDES  
 NUCLEIC ACID MOLECULES,  
 PROTEINS AND USES THEREOF"

) Group Art Unit: 1632

) Examiner: Woitach, J.

) RESPONSE TO  
 ) RESTRICTION REQUIREMENT

CERTIFICATE OF MAILING	
I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING FACSIMILE TRANSMITTED TO THE COMMISSIONER FOR PATENTS, WASHINGTON, DC 20231, (FACSIMILE NO. 703-305-4242) ON THIS 10TH DAY OF JANUARY 2002.	
By: <i>Susan Gordon</i>	HESKA CORPORATION Susan Gordon Fax 703-305-3014

Commissioner for Patents  
 Washington, DC 20231

Dear Sir:

In response to the Office Action mailed on December 10, 2001, Applicants provisionally elect to prosecute Group IX (claims 9-12, 14-17, 19-20 and 21-24) in this application, with traverse.

The present application is restricted into Groups I-XV as identified on pages 3-5 of the Office Action. It is well established that for a restriction requirement to be proper, the different groups must be "independent and distinct inventions." 37 CFR §1.142. For two groups of claims to be independent, there must be "no disclosed relationship between the two or more subjects disclosed." MPEP 802.01. Further, for two groups of claims to be "distinct," the groups of claims must be "patentable (novel and unobvious) over each other." MPEP 802.01. Further, for restriction to be appropriate between patentably distinct inventions, "there must be a serious burden on the Examiner if restriction is not required." MPEP 803.

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In the present application, Applicants contend there would not be a serious burden on the Examiner to examine all the groups together. Moreover, Applicants contend that, at the very least, Groups IX and XII should be combined since the mutcins of Group XII are related to the proteins of Group IX and, therefore, a search for proteins and their mutcins would not pose a serious burden on the Examiner.

Applicants reserve the right to file a divisional application or take such other appropriate action as deemed necessary to protect the invention of Groups I-VIII and Groups X-XV. Hence, Applicants do not hereby abandon or waive any rights in the invention of the non-elected groups.

No fees are believed to be due with this response. In the event any fees are due, please debit Deposit Account No. 081930.

Respectfully submitted,

Dated: January 10, 2002



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